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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,162	01/18/2002	Jun-ichi Yamato	ND-415US	7609
7590 09/16/2008 WHITHAM, CURTIS & CHRISTOFFERSON, P.C. SUITE 340 11491 SUNSET HILLS ROAD P.O. BOX 9204 RESTON, VA 20190				
EXAMINER BROWN, RUEBEN M				
ART UNIT 2623		PAPER NUMBER		
MAIL DATE 09/16/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/050,162

Applicant(s)

YAMATO ET AL.

Examiner

REUBEN M. BROWN

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/7/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/7/2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young, (U.S. Pat # 5,699,107) in view of Aras, (U.S. Pat # 5,872,588) & LaJoie, (U.S. Pat # 6,772,433).

Considering claim 2, the claimed program processing system for executing a program process using an EPG, comprising;

'a communication network', reads on the CATV system that supplies video programming to the TV system, as shown in Young, Fig. 22a & Fig. 22B; Para [0118, 0129].

'a program processing apparatus for executing a program process, such that the apparatus has a database for storing program reservation data identifying a reservation of a particular externally broadcast programs for recording', reads on the interactive user receiver system of Young, Fig. 22a & Fig. 22B. Young teaches reservation/record system that stores programming on a VCR or other recording medium Para [0122-0123].

'means for preparing program condition based, at least in part on the reservation data', reads on the system in Young that determines if a program has already been selected for recording by the subscriber, when the Pending button is activated, Para 0105-0106. Young also teaches that allows the subscriber to make reservation to records video programming to be broadcast to the receiver, and it is invoked by the subscriber using Fig. 9 & Para [0071], which reads on *'condition data'*.

'means for receiving and storing privacy level data having at least a first value and a second value', even though Young teaches that a subscriber may receive personalized EPG, based on their viewing habits, it does not teach the claimed privacy level data. Nevertheless, Aras teaches that a viewer may set a privacy level on whether private information is transmitted to a server, col. 22, lines 30-52. It would have been obvious for one of ordinary skill in the art, at the time the invention was made, to modify Lawler with the feature of a privacy switch, for the desirable improvement of allowing the subscriber to control which of their private data is transmitted to a third party entity.

Since Aras teaches that the subscriber may set the Privacy level to ON, then the system necessarily comprises at least two levels, i.e., ON & OFF.

'means for transmitting the privacy level data', also reads on Aras, col. 22, lines 51-54.

'means for transmitting based on the privacy level data, the program condition data through the network', reads on the combination of Young & Aras, since the combination would teach one to prohibit the transmission of certain information associated with a subscriber, at least for the benefit of the subscriber maintaining a certain level of privacy, as taught by Aras.

'an EPG preparation server, connected to the communication network for preparing EPG data' is met by the EPG provider in Young that transmits listing information to the subscribers, see Para [0118].

'wherein the EPG preparation server includes a reception means for receiving the privacy level data and condition data through the communication network'; and 'means for preparing the EPG including a display for showing the reservation status of the externally broadcast program based on the received condition data and transmission means for transmitting the EPG to the program processing apparatus', Young does not discuss that that receiver system uses a two-way system to communicate record/reservation request.

However LaJoie, which is in the same field of endeavor provides a teaching of the headend system receiving a record/reservation request from a subscriber, and providing a status of the instant request, see Fig. 25; col. 29, lines 20-65. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Young with the feature of receiving record/reservation information and providing a status to the subscriber, at least for the benefit of informing the user when if in fact the program that is the subject of the record information has actually been purchased as taught by LaJoie, col. 29, lines 47-53.

'wherein the program processing apparatus includes means for displaying the EPG'
reads on the disclosure of both Young & LaJoie

As for the additionally *'recorded program database for storing information identifying externally broadcast programs that have been recorded and playback means for retrieving and playing externally broadcast programs',* the claimed feature is met by the disclosure of Young which discusses in detail the recording and listing of recorded programs, Para [077-0086].

'program playback section...'; 'operating instruction section for controlling playback' is also met by Young & LaJoie, since both are directed to playing back recorded programming;

'inputting means for receiving user commands related to the EPG displayed...wherein receiving includes receiving user commands identifying an acquisition period associated with EPG... such that the acquisition period being a period within which a plurality of programs within the EPG may be broadcast', reads on the one hour time slot from 11:00 AM to 12:00 PM, as shown on the EPG displays of Yong, (Figs. 2-3 & Fig. 5).

'wherein preparing...includes... identifying a present date & time from an external clock', Figs. 1-5 of Young show a present time clock but do not exactly state that it is from external manner. Official Notice is taken that at the time the invention was made, it was well known in the art to provide an external time clock, at least to ensure that all time at the disparate terminal are synchronized with the main clock.

'determining based on the present date & time and the user-input acquisition period, a time relation between the present date & time and the identified user-input acquisition period, as being one of within, prior to or later than the instant user-input acquisition period'; ... such that if the present date & time is within the user-input acquisition period, determining the programs that are currently being recorded; ... confirming, in response to the user-input acquisition period being earlier than the instant present date & time, the recorded programs; ... and confirming, In

response to the user-input acquisition period being earlier than the present date & time, the stored information for reservation of recording', Young shows on Fig. 2-3 & 5 that the present time is 11:25 AM, which is within the user-input acquisition period of 11:00 AM to 12:00. The Fig. Shows an indicator 48 of all pending or in progress recording, scheduled at that time, see Para [0048], which reads on the claimed subject matter. Also see Fig. 4 of Young which discloses a list of pending and already recorded programs.

Young goes on to further teach that a recorded cell, i.e., program that has been recorded will be displayed as with a solid red background 42, Para [0043-0045].

Considering claim 16, *'wherein a monetary consideration, which differs depending upon the privacy level data sent from the program processing apparatus is imposed for the EPG'*, reads on the disclosure in Aras that "a content provider may encourage the use of behavior collection by providing different usage fees based on the enablement or disablement of the behavior collection", see col. 22, lines 45-60. Thus subscribers can optionally enable/disable their behavior to be collected and/or transmitted, wherein a content provider may provide a monetary incentive for the instant subscriber to enable behavior collection/transmission.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Boyle Teaches displaying icons that indicate the recording status of programs on the EPG.

Any response to this action should be mailed to:

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or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/
Patent Examiner, Art Unit 2623